

REMARKS

We are in receipt of the Office Action dated September 16, 2003, and the above Amendment and following remarks are made in light thereof.

Claims 1-8 are pending in the application. Pursuant to the Office Action, claim 8 is rejected under 35 USC §112 for indefiniteness. The Examiner points out two instances in which the "second" elongated member should be the "first" elongated member. Claim 8 has been amended accordingly.

Claims 1-3 and 8 are rejected under 35 USC §103(a) as being unpatentable over either UK 573,204 (Marti) or DE 844,128 (Brass) in view of Litchfield U.S. 1,207,947. Claims 4 and 5 stand rejected for being obvious over Marti or Brass in view of Litchfield, and further in view of Wilbur U.S. 284,933. Claims 6 and 7 are rejected as being obvious over either Marti or Brass in view of Litchfield, and further in view of Ping 6,116,124. These rejections were made final.

Brass is directed to a typical channel-pipe adjustable pliers. The Brass pliers include a pawl b which, when engaged with a serration in one of the handle members, prevents the narrowing of the space between the jaws. In contrast to the present invention, the pliers disclosed in Brass are not self-sizing and do not permit one-handed operation. Specifically, in order to adjust the spacing between the jaws and the Brass pliers, first the pawl must be pivoted about screw g in order to move out of engagement with a tooth, and then a handle taken in each hand in order to slide the pivot along the slide to the appropriate position, maintaining that position, and then engaging the pawl with the appropriate tooth in order to prevent the jaws from moving towards each other.

Marti also disclosed a conventional channel-type adjustable pliers. The only difference between the pliers disclosed in Marti and those in Brass is the pawl that Brass uses for

maintaining the jaws in a particular position. Otherwise, Marti also requires two hands in order to adjust the jaws to the desired spacing.

Litchfield is directed to a tool having movable jaws for gripping or cutting an object located there between. It includes a first handle 8 with an integral jaw 1 and a second jaw 2 pivotally connected the first handle 8 by a pivot bolt 9, and a second handle 15 pivotally connected to the jaw 2 by a pivot bolt 16. The pivot bolt 9 is received in a slot 10 and the handle 8, with coil spring 11 interposed between the pivot bolt 9 and the outer extremity of the slot 10. By separating the second jaw from the handle 15, Litchfield has provided a tool that progressively closes and locks the jaws about a work piece by actuation of the handle. Specifically, movement of the handles produces only a partial closing movement of the jaws, the entire closing movement of the jaws being produced by successive relative contracting and expanding movement of the handles. Thus, a relative step-by-step movement is imparted to the jaws, the coil spring 11 acts against the pivot 9 and the outer end of the slot 10 to move the handle 8 so as to restore the pivot 9 to the inner extremity of this slot to initiate further closing action of the jaws upon manipulation of the handles.

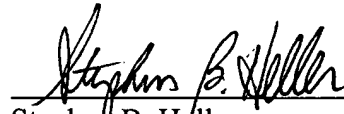
In the present case, there would be no incentive to include the spring 11 from Litchfield with either of the pliers disclosed by Marti or Brass because the Litchfield tool utilizes spring 11 in connection with its mechanism for progressively closing the jaw members. There is no similar structure or purpose in either of the Marti or Brass pliers. Thus, the only incentive for combining these references is the teaching of the present application, which is clearly improper.

That hindsight has, in fact, been used by the Examiner is shown by his highly selective reading of Litchfield. Specifically, Litchfield also includes a coil spring 19 that is interposed between a rearwardly extending arm of frame 7 and the lever 15. Spring 19 operates to hold the

lever normally in engagement with the inwardly-extending shoulders 21 on the frame 7. Such a spring 19 simply would not be used in the present invention. Yet, instead of taking Litchfield as a whole, the Examiner "cherry picks" to support his conclusion of obviousness.

Accordingly, reconsideration and allowance of the pending claims is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Stephen B. Heller", is written over a horizontal line.

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